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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/454,492

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BALLARD

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EXAMINER

WEISBERGER, R

ART UNIT

PAPER NUMBER

2164

DATE MAILED:

07/03/01 *9*

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
09/454,492

Applicant(s)  
09/454,492

Examiner  
Weisberger Richard C.

Group Art Unit  
2165



☐ Responsive to communication(s) filed on \_\_\_\_\_.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 42-57 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 42-57 is/are rejected.

☒ Claim(s) 42-57 is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. Claims 42-45 and 54 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 42 and 54 are vague and indefinite as it is generally not clear what communication network the applicant is claiming. The preamble of claims 42 and 53 include one or more remote data processing subsystems, one intermediate data collecting subsystem, and a central subsystem. In addition, a term tiered architecture is included. The particulars of these systems are unclear as is their make-up and architecture. Clarification is requested. Is the preamble a general description of all the elements of the claimed combination which are conventional or known? The preamble further describes the data processing subsystem to include a data access subsystem. This subsystem is not defined with particularity. The antecedent basis for the claim limitations is confusing. Is it a further limitation of the data access subsystem? If so, it is not clear how the subsystem is further limited by subsequent language. Substantial clarifications is requested.

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2. Claims 46-50 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 46, a method of transmitting data in a tiered manner (see preamble) is vague and indefinite. Moreover, the subsystems are not defined with particularity, i.e. it is not clear how one differentiates a remote, intermediate or a central subsystem. Clarification is requested. In the limitations of the claims, the step of transmitting data within the remote locations is vague and indefinite. Remote locations, what remote locations? Moreover, the step of transmitting data within the central locations is vague and indefinite. Central locations, what central locations?

3. Claim 55 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 55, the step of capturing electronic transaction data is vague and indefinite. How does this step differ from the step of capturing the image of the check and extracting data therefrom. Also, the step of verifying the data is claimed without particularity. Also, the step of transmitting data within the remote locations is vague and indefinite. What remote locations?

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What does this mean? Moreover, the step of transmitting data within the central locations is vague and indefinite. What central locations?

4. Claims 56-57 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 56 the step of managing the capturing is claimed without particularity. Moreover, the step of managing the collecting, processing, sending, and storing of the captured transaction is claimed without particularity. Claim 57 is improperly dependent and is unduly ambiguous.

Claim 42+ objected to under 37 CFR 1.75 as being a substantial duplicate of claim 54+. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

### ***Double Patenting***

5. Claims 46-50 and 55-57 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 26-50 of U.S. Patent No. 5,910,988. Although the conflicting claims are not identical, they are not patentably distinct from each other

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because the distinction between the instant claims and the cited claimed is preferred data managed.

6. Claims 42-45 and 54 are rejected under the judicially created doctrine of double patenting over claims 1-25 of U. S. Patent No. 5910988 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: The common features appear to be the physical structure of the Datatresury Access Terminal, the Datatresury System Access Collector, and the Dataareasury System Processing System. And there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Respectfully;

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A handwritten signature in cursive script, appearing to read "Rich Weisberger", written over a horizontal line.

Rich Weisberger

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